

Petition for: Order Removing Conservator of the Person

Age: 69 years		I'ISHA COOLEY, daughter is petitioner.	NEEDS/PROBLEMS/COMMENTS:	
		RUBY JONES, sister, was appointed conservator of the person and estate on 3/25/2008.	CONTINUED FROM 11/08/12 Minute Order from 11/08/12 states: Parties agree to participate in mediation on 11/16/12 at 2:00 pm. Matter continued to 12/14/12.	
Cont. from 110812		Petitioner alleges: <ol style="list-style-type: none"> Ruby Jones ("Ruby"), Conservator, is no longer able to care for William due to her deteriorated health. Ruby spends most of her time in William's wheelchair or sleeping. Ruby has her grandson, Chester, living with her to help care for William. Chester is unstable due to mental illness. He has suffered a nervous breakdown and has a violent temper. On 08/02/12, William was admitted to the hospital. Ruby stated that William woke up disoriented and suggested that he may have had a stroke; however, the physician caring for William stated that he had suffered a severe head trauma and that he had a subdural hematoma that was several days old. Ruby's daughter, Lisa, informed Petitioner that there had been an altercation between William and Chester and Chester's hand was broken in this altercation. Before William's hospitalization, Petitioner was concerned with the care he was receiving from Ruby because he had severely swollen legs on 07/10/12. On 07/19/12, Petitioner had William evaluated by his physician. The physician stated that Williams legs were swollen because of sitting too much and prescribed support stockings. Petitioner offered to take William to get the prescription filled and have him fitted for stockings, but Ruby stated that she would take care of it. 		
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	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
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	Citation			
	FTB Notice			

Continued on Page 2

9. On 07/24/12, Petitioner called to see if the prescription had been filled and was informed by Ruby that she had not gotten the prescription filled yet. So Petitioner offered to come by on 07/26/12 and take William to get fitted for support stockings.
10. On 07/26/12, Petitioner took William to have him fitted for support stockings. The pharmacy assistant stated that William would not be able to put the support stockings on himself due to his long jagged nails, stating that they would tear the stockings.
11. Petitioner took William to have a manicure and pedicure and Ruby got upset with Petitioner stating that she would rather have his podiatrist clip William's nails.
12. William is not diabetic and is not required to have a physician trim his nails. Petitioner did contact William's podiatrist anyway and was told that it had been more than 4 months since he was last seen. Petitioner, as a licensed care provider, is aware that no more than 2 months should pass between nail care appointments.
13. In addition to the above, on 07/20/12, Petitioner was informed by her cousin Henry, that he had gone to Ruby's home to clean William's room and found it messy, with clean and soiled clothing mixed up together. Further, Henry stated that William's sheets were soiled with fecal matter and he also found soiled diapers throughout the room. Petitioner went to Ruby's home and witnessed the filth and stench of William's room first hand.
14. At the last family meeting with hospital staff, Petitioner made several suggestions on care facilities for William. Ruby was not pleased with Petitioner's interference or suggestions and told hospital staff not to give any information to Petitioner and at this time, Petitioner is totally in the dark about William's care causing Petitioner great concern.
15. Due to the above, Petitioner does not believe that William is receiving adequate care at Ruby's home.

Petitioner requests an Order:

1. Removing Ruby Jones as Conservator of the person and estate; and
2. Appointing I'isha Cooley as Temporary Conservator of the person of William Cooley, Sr.

Declaration of Ruby Jones in Opposition to Petition for Order Removing Conservator of the Person and Estate filed 11/01/12 states:

1. The Conservatee is her brother and lived in her home even before the conservatorship was established. He continued to reside in her home until August 2012 when he suffered a stroke and was hospitalized.
2. With the assistance of her children and grandchildren, she has ensured that all of Mr. Cooley's needs were met. Mr. Cooley suffers from dementia, and recently has become incontinent and messes himself in the bed.
3. Since admission to the hospital, Mr. Cooley has been semi-conscious and in a near coma like state.
4. I was informed by the neurologist that Mr. Cooley would require long term skilled nursing care and if he regained consciousness, he would be like a vegetable.
5. Petitioner apparently was informed that Mr. Cooley suffered an intercerebral hemorrhage and a subdural hematoma and concluded from that, that he has suffered some sort of blow to the head. However, the hemorrhage and the subdural hematoma, which is a blood clot, are consistent with Mr. Cooley having a stroke.
6. Declarant states that she suffers from arthritic knees and sometimes uses a wheelchair or walker to relieve her physical symptoms. This has never hindered her from caring for Mr. Cooley since she has the assistance of her children and grandchildren.

Continued on Page 3

7. Mr. Cooley is very particular about his fingernails and would refuse to have anyone trim his nails except a podiatrist, therefore declarant states that she would take him to the podiatrist periodically to have his nails trimmed. Mr. Cooley only missed one appointment with the podiatrist on 05/15/12 because he refused to go. Petitioner doesn't know what Mr. Cooley is like when he does not want to do something.
8. Declarant states that she always tried to keep Mr. Cooley happy and not aggravate him in his stages of dementia. Declarant states that she is a retired special education teacher and a Ryan act regular classroom teacher. She also states that she is a certified home health aid nurse.
9. Declarant states that Petitioner is unaware that Mr. Cooley is incontinent. He would have accidents at night thus causing the mess on his bed. Declarant states that Mr. Cooley's bed was changed daily. She further states that Mr. Cooley did not wear diapers, also no dirty clothes were kept in his room. All dirty clothes are kept in the garage by the washer and dryer. Declarant states that she washed his laundry everyday.
10. Declarant states that there were clothes on the floor by his closet. She made up the clothes in sets and put them there for Mr. Cooley so that he didn't need to pull clothes out of the drawer to get dressed.
11. Declarant states that the pictures taken by Petitioner were taken after Mr. Cooley had awakened and pulled all of his clothing out of his drawers. He has dementia and does things like this from time to time.
12. Petitioner states that she has such great concern for her father's well-being yet she has only visited him 10 times in the last 10-12 years. When he was in the hospital in intensive care, Petitioner went on a trip to a concert out of town. Does that seem severely concerned? Petitioner did not come over and sit and talk with her father for any length of time when he still knew who she was. Petitioner is concerned for her dad now that he doesn't know her from anyone else.
13. Regarding the hospital staff meetings, Petitioner did make suggestions on care facilities for her dad. Declarant states that she also had suggestions. Declarant wanted to place him at Horizon Health Care, but Petitioner was unhappy with that facility, stating that a friend of hers worked there and told her that Horizon was not a good place. Declarant states that she takes care of her business in a business like manner and does not go by hearsay.
14. Since being appointed conservator, declarant has been responsible for Mr. Cooley and has ensured that he was always in the least restrictive environment. Mr. Cooley is always clean and well groomed and seemed content. Declarant states that she can go visit Mr. Cooley anytime she wants and so can Petitioner.
15. Declarant states that she did not tell the hospital to not provide any information to Petitioner. She merely informed them that she was the conservator and that Petitioner was not allowed to sign any papers regarding Mr. Cooley's care.
16. Declarant states that she is sorry that Petitioner feels she is in the dark regarding her father's care because she did everything she could to keep her involved, making sure she knew what was going on and inviting her to attend all meetings.
17. Declarant states that she also has great concern for Mr. Cooley and wishes to ensure that he is in the least restrictive placement and is getting the best of care.
18. Declarant states that she is in the process of preparing an accounting. She states that she did not realize an accounting was necessary since his money is in a blocked account.

Declaration of Chester Armstrong filed 11/01/12 states: that he did not strike or hit Mr. Cooley at anytime. He states that in the last week of July 2012, he was cleaning up a bathroom and when he attempted to leave the bathroom, Mr. Cooley began swinging his fists at him. Mr. Armstrong states that his hand was broken while trying to defend himself.

1B William Cooley, Sr. (CONS/PE)
Atty Farmer, C. Michael (for Ruby Jones – sister/Conservator)
Atty LeVan, Nancy J. (for I'isha Cooley – daughter/Petitioner)

Case No. 08CEPR00059

**Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C.
1820, 1821, 2680-2682)**

Age: 69 years		<p>I'ISHA COOLEY, daughter is petitioner and requests appointment as successor conservator of the person with medical consent powers and appointment as successor conservator of the estate with \$101,066.14 placed into a blocked account and bond in the amount of [NOT STATED].</p> <p>RUBY JONES, sister, was appointed conservator of the person and estate on 3/25/2008.</p> <p>Estimated value of the estate: Personal property - \$134,177.80 Annual income - \$29,122.00 Total - \$163,299.80</p> <p>Voting rights affected.</p> <p>Petitioner alleges: The current conservator is unable to care for or protect the Conservatee and is over a year late in filing the second accounting and is not acting in the best interest of the conservatee. Conservatee suffered an attack from the Conservatee's grandson and is unconscious.</p> <p>Court Investigator Charlotte Bien's Report filed on 10/26/12.</p>	NEEDS/PROBLEMS/COMMENTS:	
			<p>Court Investigator advised rights on 10/23/12.</p> <p>Voting rights affected, need minute order.</p> <p>CONTINUED FROM 11/08/12 Minute Order from 11/08/12 states: Parties agree to participate in mediation on 11/16/12 at 2:00 pm. Matter continued to 12/14/12. The Court directs that the accounting be completed by 12/14/12.</p> <p>As of 12/10/12, no accounting has been filed by the present conservator, Ruby Jones.</p> <p>The following items remain outstanding for I'isha Cooley's petition for appointment as conservator:</p> <ol style="list-style-type: none"> 1. Need receipt for viewing Conservatorship video. 2. Petitioner is requesting medical consent powers, therefore need capacity declaration. 3. Petitioner requests that \$101,066.14 be placed in a blocked account and that bond be set but does not state the amount of bond requested. The difference between the amount requested to be placed in a blocked account and the Petitioner's estimate of the value of the estate is \$62,233.66. Based on this figure, bond should be set at \$68,457.03. (Bond worksheet in the file for reference). <p>Note: If the petition is granted, status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Friday, January 18, 2013 at 9:00am in Dept. 303 for filing of the bond; • Friday, May 17, 2013 at 9:00am in Dept. 303 for filing of the Inventory & Appraisal and for filing of the final account by former conservator • Friday, February 14, 2014 at 9:00 am in Dept. 303 for filing of the First Account of Successor Conservator 	
Cont. from 110812				
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		<p>Reviewed by: JF</p> <p>Reviewed on: 12/10/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1B - Cooley</p>		

1B

Atty Motzenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

Status Hearing

Age: 90 years	PUBLIC GUARDIAN , Conservator of the Person and Estate appointed 11/5/2008, Petitioned for relief from Respondent, VIRGINIA "GINGER" GREGGAINS , daughter, for breach of fiduciary duty, for conversion of personal property, and for elder abuse, and requested an accounting and payment of damages. Minute Order dated 10/16/2012 from a Status Conference in this case states: <ul style="list-style-type: none"> Mr. Thornton informs the Court that his client [JULIE BANKS, granddaughter] is objecting to the settlement terms "dismissal with prejudice" as well as the scope of the release; Mr. Thornton requests the matter be set for trial with regards to the settlement agreement; The Court sets a Settlement Conference on 11/27/2012; parties are directed to submit their settlement conference statements along with a courtesy copy for the Court by 11/20/2012; The matter is set for Trial on 12/4/2012 with a one hour estimate; Mr. Thornton waives the 30-day rule. 	NEEDS/PROBLEMS/COMMENTS: Continued from 11/27/2012. <i>Minute Order</i> of that date from the Settlement Conference states the Court and all counsel met and conferred in chambers. Matter set on 12/14/2012 for Status Hearing. Page 2B is Status Re: Petition Requesting Relief for Breach of Fiduciary Duty; and (2) for an Accounting and (3) for Conversion of Personal Property and (4) for Elder Abuse and (5) for Damages filed 9/2/2011 by Public Guardian. Page 2C is Second Account Current and Report of Conservator, etc. filed 2/14/2012 by Public Guardian. Page 2D is Petition for Confirmation of Actions of Attorney-in-Fact, Response to Petition Requesting Relief for Breach of Fiduciary Duty, for an Accounting, etc., and Objection to Second Account of Conservator filed 3/26/2012 by Virginia Greggains. Page 1E is the Petition Requesting Approval of Settlement Agreement in the Matter of: Petition Requesting Relief for Breach of Fiduciary Duty, etc. filed 8/14/2012 by Public Guardian.
Cont. from 021612, 041712, 050912, 071112, 081512, 092612, 101612, 112712		
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Citation		
FTB Notice		
		Reviewed by: LEG Reviewed on: 12/10/12 Updates: Recommendation: File 2A - Fly

Atty Motsenbocker, Gary L, sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

Status Re: (1) Petition Requesting Relief for Breach of Fiduciary Duty; and (2) for an Accounting and (3) for Conversion of Personal Property and (4) for Elder Abuse and (5) for Damages

Age: 90 years	PUBLIC GUARDIAN , Conservator of the Person and Estate appointed 11/5/2008, is Petitioner. Petitioner states: <ul style="list-style-type: none"> The Conservatee was at all relevant times a dependent adult under the care, custody and control of Respondent, VIRGINIA "GINGER" GREGGAINS, daughter; The Conservatee was not competent or capable of handling her personal finances or financial affairs and was entirely dependent upon Respondent to do so for her; Respondent had a confidential relationship with the Conservatee and her husband, ELMER FLY (DOD 11/8/2008), as their child; Petitioner alleges Respondent was responsible in some manner for the occurrences alleged herein and the damages proximately caused thereby; Elmer and the Conservatee executed a DECLARATION OF TRUST, ELMER V. AND JULIA B. FLY, naming Respondent as Successor Trustee; the Trust was amended several times, the latest being the <i>Third Amendment</i> dated 3/24/2008 (copy of Restated Trust and two subsequent amendments attached as Exhibits A, A-1 and A-2); Petitioner has no knowledge if there was an intervening amendment between the <i>Restatement of Trust</i> dated 9/25/2000 and the <i>Second Amendment</i> dated 2/7/2008; <p align="center">~Please see additional page~</p>	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 11/27/2012.</u>	
Conf. from 021612, 041712, 050912, 071112, 081512, 092612, 101612, 112712			
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FTB Notice			
Reviewed by: LEG			
Reviewed on: 12/10/12			
Updates:			
Recommendation:			
File 2B - Fly			

Petitioner states, continued:

- Respondent has been the sole Successor Trustee of the Trust since December of 2007 or early 2008, and she acted in several matters on behalf of the Conservatee and Elmer using General Durable Powers of Attorney (copy attached as Exhibit B);
- Petitioner possesses certain transactional documents and forms which Respondent signed in her capacity as "power of attorney in fact" in which she indicated she held the power for both Conservatee and Elmer, and these transactional documents conclusively establish that Respondent was acting in a fiduciary capacity for Conservatee;
- Petitioner possesses copies of a number of checks written on an account in the names of Conservatee, Elmer, and Virginia "Ginger" Greggains (Respondent); the transactions in this account are the prime source of a number of questionable expenditures made by Respondent from Conservatee's funds; the address on the checks is the personal residence of Respondent; a number of checks were written, signed and made payable to Respondent as well as to Respondent's husband, **STEPHEN ROY GREGGAINS**, each in the amount of **\$5,000.00**;
- In early 2008, Respondent contacted **SOUTAS & ASSOCIATES**, a firm engaged in Medi-Cal planning services, and in connection with the consultation, Respondent agreed to purchase an annuity on behalf of Conservatee and signed an application for an annuity with OM Financail Life Insurance on 5/29/2009 of **\$159,983.79**;
- On the annuity application, Respondent stated Conservatee held cash and investment accounts valued at **\$357,000.00**; the application contains handwritten entries detailing **\$82,000** in "Investment Experience and Holdings," **\$200,000** in "Money Market" accounts, and **\$75,000** in "Other Mutual Funds" accounts;
- As of 9/12/2008, the date of **PUBLIC GUARDIAN'S** appointment as temporary conservator, Respondent surrendered **~\$231,000.00** in accounts, and it appears that **\$120,000.00** in cash and investments accounts asserted to have existed by Respondent in May 2008 is missing;
- **Respondent should be ordered to account for all of the cash and investment accounts held by Conservatee from 12/1/2007 to the date Respondent surrendered the assets in her possession to the Public Guardian;**
- Respondent arranged for the removal and disposition of jewelry, motor vehicles, household furniture and furnishings, and several personal property items belonging to the Conservatee contained in her personal residence, in anticipation of the sale of the residence by Respondent; Petitioner alleges Respondent personally took and/or made gifts to family members of a number of the items from the residence, she sold some of the personal property at several yard sales, and she did not account to the principals for any of the proceeds or disposition of the items;
- Petitioner alleges that Respondent made gifts of motor vehicles that belonged to the Conservatee to family members without consideration; she removed and disposed of a number of plants growing on the residential property of Conservatee which are believed at the time to be worth thousands of dollars; she used funds belonging to the Conservatee to purchase and make improvements on her own residence, to make the down payment on a personal vehicle for herself, and to pay off a personal loan that she and her husband owned on a travel trailer;
- The Conservatee's financial status at present is tenuous at best; her annuity payments and monthly income are sufficient to fund her care for ~2 years; Petitioner has been unable to modify the annuity payments from the original terms to allow monthly payments, which combined with her income would sustain payments of **\$5,625.00 per month** to her residential facility; it is anticipated that additional funds will be necessary to sustain the Conservatee in her present environs.

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Petitioner states, continued:Causes of Action:

1. **Breach of Fiduciary Duty:** Respondent as Successor Trustee owed a fiduciary duty to the Petitioner and Respondent had a duty to exercise the utmost care, integrity, honesty and loyalty in her dealings with Conservatee's property in her capacity as attorney in fact for Conservatee or in her capacity as trustee of Conservatee's Trust; in breach of her fiduciary duty, Respondent deposited Trust funds into her own personal account; she took Conservatee's funds and used them for her own benefit, she took possession of Conservatee's personal property and the proceeds from sale of such property and converted those funds to her own use; the actions of Respondent accrued to the detriment of the Conservatee; Respondent know or should have known that her acts would accrue to the detriment of the Conservatee and that she did all of these acts in patent "bad faith" with the intent of depriving the Conservatee of her property without good and sufficient consideration and in violation of her duty to the Conservatee;
 - Respondent has not rendered an account of her administration of the personal property and funds of Conservatee as required by law, and has not accounted to Conservatee or her legal representative for her actions as to the Conservatee's assets and their disposition; she has provided inaccurate and incomplete information regarding the assets taken for her benefit; **Petitioner requests the Court order Respondent to render a verified detailed account of her handling of the financial and personal affairs of the Conservatee from 12/1/2007 to the present and to serve that account to Petitioner within 90 days of the hearing.**
 - Respondent owed the Conservatee a duty to act in scrupulous good faith and absolute candor; Respondent breached her fiduciary duty to the Conservatee by failing to preserve the Conservatee's property, failing to deal impartially with the Conservatee's assets, failing to administer the affairs in Conservatee's best interest, failing to keep the Conservatee and her representatives reasonably informed, failing to keep Conservatee's property separate from her own property, converting Conservatee's property to her own use and enjoyment, and failing to maintain cash held on behalf of Conservatee in interest bearing accounts; Respondent should be ordered to respond in damages for each and every breach of fiduciary duty, wrongful act and/or both as provided for in the law;
 - Respondent's acts in this matter constitute breach of fiduciary duty, as she engaged in self-dealing, she breached her duties of loyalty and impartiality, and all acts of Respondent alleged herein were patently unfair and prejudicial to the interest of the Conservatee and her estate; Respondent failed to observe the directions and intent of the Settlers as expressed in their Trust, and all acts of Respondent in regards to the Trust were done "in bad faith" with intent to deprive Conservatee of property to which she is rightfully entitled and constitute breach of trust; **Petitioner alleges Conservatee is entitled to damages with interest as provided in the Code, or in the alternative that Respondent be ordered to pay damages in an amount equal to double the value of all property taken, concealed and/or disposed of by Respondent in bad faith according to proof.**
 - Petitioner alleges Respondent did all of the acts alleged with the intent to deprive the Conservatee of her property while she held a fiduciary relationship with Conservatee, and that any and all actions of Respondent were in violation of her fiduciary duty and **should be adjudged voided and set aside, and the assets or the value of the assets should be ordered returned and any loss incurred should be surcharged against Respondent.**

~Please see additional page~

Causes of Action, continued:

2. **Conversion:** The acts of Respondent as set forth constitute conversion of the Conservatee's property; Respondent without legal claim, privilege or right seized and disposed of the tangible personal property of the Conservatee, the Conservatee and/or her estate sustained damages thereby equal to the value of the property at the time it was converted by Respondent; **Respondent should be ordered to respond in damages proximately caused by her actions.**
3. **Abuse of an Elderly Person:** For a time period to be proven at trial, but no later than December 2007, the Conservatee was elderly, suffering from diminished mental capacity and was easily subjected to be taken advantage of by designing persons such as Respondents; with knowledge of this, each Respondent schemed to take advantage of the Conservatee and intended to cheat her out of her interest in the property; in furtherance of said scheme, which each Respondent concealed from the Conservatee, each Respondent exercised complete dominion and control over the Conservatee's assets and gained knowledge of her assets and property; the conduct of each Respondent resulted in the deprivation of Conservatee's assets which are necessary for her care and ongoing maintenance;
 - The conduct of each Respondent constitutes financial abuse under Welfare & Inst. Code § 15657 as defined in § 15610.30; each Respondent is guilty of recklessness, oppression, and fraud, and acted with malice against the Conservatee in the commission of the abuse; the conduct of each Respondent was in no way for the benefit of Conservatee and was willful and wanton, and was intended to cause injury to her; **the Conservatee is entitled to an award of exemplary or punitive damages;**
 - **Under Welfare & Inst. Code § 15657(a), each Respondent is liable to the Conservatee for reasonable attorney fees and costs, including reasonable fees for the services of the Public Guardian, as Conservator of her Estate, and their attorney for his services provided to litigate this claim necessitated by conduct of each Respondent.**
4. **Constructive Trust:** Respondent Greggains and the unnamed Respondents each have wrongfully taken, transferred, concealed and otherwise deprived the Conservatee of funds and/or personal property which rightfully belongs to her, and they therefore have become the involuntary trustees of said property for the benefit of the Conservatee; **Respondents should be ordered to surrender and deliver said property to the Conservatee and/or the Petitioner, her legal representative.**

Petitioner prays the Court Order:

1. Respondent must render a detailed and correct account for all property held and administered by her, either as Trustee and/or as agent under her power of attorney within 90 days of the date of the initial hearing, for the period from 12/1/2007 to the date she surrendered the Conservatee's funds and property to the Public Guardian;
2. Respondent must respond in damages for all property taken and/or wrongfully appropriated by her, or for funds and/or property that is missing or unaccounted for, together with interest at the legal rate per annum, from the date of the breach of trust and/or fiduciary obligation;
3. Respondent must respond in damages together with interest at the legal rate per annum from the date of breach of trust and/or fiduciary obligation;
4. Respondent and the unnamed Respondents must respond in exemplary damages for their outrageous, reckless ness, oppressive, fraudulent and malicious conduct in this matter;

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Petitioner prays the Court Order, continued:

5. In the alternative, Respondents must respond in damages in an amount equal to twice the value of property taken, concealed and/or disposed of by her "in bad faith;"
6. Respondent and the unnamed Respondents must respond in actual damages caused to the Conservatee by their conversion of her tangible personal property;
7. Respondent and the unnamed Respondents are found guilty of elder abuse and are assessed all the damages afforded the Conservatee under the law, including actual damages, exemplary damages, and attorney fees and costs;
8. A Constructive Trust is imposed on all assets taken by the Respondent and the unnamed Respondents for any property and sums the Court determines are rightfully due the Conservatee for their wrongful conduct; and
9. Attorney's fees and costs of suit are awarded as provided for in the law.

Atty Motsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

(1) Second Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorneys (Prob. C. 2620, 2623, 2640, 2942)

Age: 90 years		PUBLIC GUARDIAN , Conservator of the Person and Estate appointed 11/5/2008, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 11/27/2012.</u>
		Account period: 1/20/2010 – 1/19/2012	
Cont. from 032712, 041712, 050912, 071112, 081512, 92612, 101612, 112712		Accounting - \$313,100.83	
		Beginning POH - \$287,627.99	
		Ending POH - \$140,331.40	
		(\$128,831.40 is cash)	
<input type="checkbox"/>	Aff.Sub.Wit.		
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<input checked="" type="checkbox"/>	Notice of Hrg	Conservator - \$3,660.40	
<input checked="" type="checkbox"/>	Aff.Mail	(26.95 Deputy hours @ \$96/hr and 14.20 Staff hours @ \$76/hr)	
<input type="checkbox"/>	Aff.Pub.	Attorney (County Counsel)- \$690.00	
<input type="checkbox"/>	Sp.Ntc.	(4.6 hours @ \$150/her)	
<input type="checkbox"/>	Pers.Serv.	Attorney (Motsenbocker) - \$6,863.83 (25.50 hours @ \$250/hr plus filing fee of \$395.00 and Fed Ex copies of \$93.83)	
<input type="checkbox"/>	Conf. Screen	Bond fee - \$1,510.50	
<input type="checkbox"/>	Letters	(o.k.)	
<input type="checkbox"/>	Duties/Supp	Petitioner prays for an Order:	
<input type="checkbox"/>	Objections	1. Approving, allowing and settling the Second Account and Report of Conservator;	
<input checked="" type="checkbox"/>	Video Receipt	2. Authorizing conservator's compensation;	
<input type="checkbox"/>	CI Report	3. Authorizing payment of attorney fees;	
<input type="checkbox"/>	9202	4. Authorizing payment of the bond fee.	
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		Reviewed by: KT / LEG
<input type="checkbox"/>	Status Rpt		Reviewed on: 12/10/12
<input type="checkbox"/>	UCCJEA		Updates:
<input type="checkbox"/>	Citation		Recommendation:
<input type="checkbox"/>	FTB Notice		File 2C - Fly

**Petition for Confirmation of Actions of Attorney-in-Fact, Response to Petition
Requesting Relief for Breach of Fiduciary Duty, for an Accounting, Etc., and
Objection to Second Account of Conservator [Prob. C. 4541 et seq.; 1720 et seq; 850 et
seq.; 16440(b) et seq; W & I Code 15657.5]**

Age: 90 years	VIRGINIA GREGGAINS (aka "GINGER") , daughter, is Respondent.	NEEDS/PROBLEMS/COMMENTS:
Cont. from 050912, 071112, 081512, 092612, 101612, 112712	Respondent states:	<u>Continued from 11/27/2012.</u>
<input type="checkbox"/> Aff.Sub.Wit.	• She is the only child of Elmer and Julia Fly; prior to Elmer's death on 11/8/2008, he was under a conservatorship with the PUBLIC GUARDIAN as Conservator (Case 08CEPR00829), and those proceedings were concluded in 2010;	
<input checked="" type="checkbox"/> Verified	• Julia continues under conservatorship with the Public Guardian as Conservator of her person and estate;	
<input type="checkbox"/> Inventory	• Elmer and Julia entered into a trust designated as the ELMER V. AND JULIA B. FLY TRUST , in which they declared they held various assets as Trustees;	
<input type="checkbox"/> PTC	• On 9/25/2000, Elmer and Julia executed an AMENDED AND RESTATED DECLARATION of the Trust (<i>copy attached as Exhibit A</i>);	
<input type="checkbox"/> Not.Cred.	• On 2/7/2008, Julia as Trustor and Trustee signed a purported "Second Amendment" to the Trust (<i>copy attached as Exhibit A-1</i>);	
<input checked="" type="checkbox"/> Notice of Hrg	• On 3/24/2008, Attorney MELISSA WEBB with [Dowling Aaron], which firm drafted the Flys' restated Trust, met with Julia and at or following that meeting Julia individually and as attorney-in-fact for Elmer executed a "Third" Amendment to the Trust (<i>copy attached as Exhibit A-2</i>);	
<input checked="" type="checkbox"/> Aff.Mail W/	• The Third Amendment reversed the dispositive provisions of the Second Amendment and remains the most recent amendment to the Trust;	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order X		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
~Please see additional page~		
		Reviewed by: LEG/KT/LEG
		Reviewed on: 12/10/12
		Updates:
		Recommendation:
		File 2D – Fly

Respondent states, continued:

- Per the Restated Trust as amended by the Third Amendment, all assets are held in trust for the benefit of Elmer and Julia during their lifetimes and during the lifetime of the survivor; following Julia's death, the assets are to be distributed **½ to Ginger and ½ to the Settlor's three grandchildren, ERIC (RICK) GREGGAINS, JULIE BANKS and TINA COX in equal shares;**
- Trust provides that on failure of the initial Trustees Elmer and Julia to act as Trustees, Ginger was to act as Successor Trustee, and the original Trust named **JULIE BANKS**, granddaughter, as an alternate, while the Third Amendment named Ginger's spouse, **STEPHEN ROY GREGGAINS** (Roy) as alternate successor trustee to Ginger;
- On 3/21/2008, Julia also executed a General Durable Power of Attorney (POA) (*copy attached as Exhibit B*), which designated Ginger as attorney-in-fact and Stephen as alternate agent;
- In December 2007, Elmer suffered a massive stroke and heart attack, and was moved several times to different care facilities due to his becoming violent and disruptive, and after a second heart attack, he was moved on 3/5/3008 to Alzheimer's Living Center at Elim ("Elim");
- In June 2008, after Julia's condition declined and was taken by ambulance several times to the hospital, she was required to live at Elim, as she could no longer live with Ginger and her husband in their home in the room they had prepared in August 2007 with safety rails and monitors for Julia and Elmer in the event they were no longer able to live independently;
- From the time of Elmer's hospitalization in December 2008, the family was constantly harangued by Ginger's daughter, **JULIE BANKS** and her husband **JOHN BANKS**, and they also had disrupted the living facilities, and had to be asked to leave or restricted from visiting Elmer and Julia at Elim;
- Elmer had asked John Banks after Elmer's hospitalization to remove guns from under Elmer's bed and put them in the gun safe at his residence; after the gun safe was checked at a later time, it was discovered the guns and **\$5,000.00** cash in the safe was missing; this and the Banks' disruptive conduct caused Julia mental suffering and anguish;
- Ginger and her husband have at all times followed the advice of physicians, hospitals and care providers for the care of Elmer and Julia; Ginger's intent was always to keep them well cared for;
- As it became evident Elmer and Julia would not return to their own residence, Ginger and family members with concurrence of Julia began cleaning out the residence to prepare it for sale with proceeds to be used for their care if needed; 50 years of belongings were sorted through;
- Following Julia's hospitalization, Ginger paid Elmer and Julia's bills, as she was a joint account holder with Elmer and Julia that was previously established, and their monthly **\$4,700.00** in social security and pensions was deposited into the account which was used to pay their bills;
- Ginger's action was taken first as daughter to provide care for her parents, and as attorney-in-fact under the POA; she did not specifically take actions as Trustee though she was designated successor trustee;
- **Medi-Cal planning to preserve assets:** Ginger sought advice regarding Elmer qualifying for Medi-Cal and the Elim staff referred her to **SOUTAS & ASSOCIATES**; Ginger followed their recommendations to qualify Elmer & Julia to receive Medi-Cal for their continuing care; Ginger was advised in order to qualify Elmer & Julia to move a substantial portion of their liquid assets, make certain pre-need arrangements, and that other funds could be transferred by gift in ways that would not cause ineligibility for Medi-Cal;

~Please see additional page~

Respondent states, continued:

- Julia agreed to the proposed plan and actions taken with her authorization included: prepayment of funeral expenses; payoff of loans, reimburse Ginger and her husband for remodeling expenses done for Elmer and Julia; purchase of annuity (**\$159,983.79**); payment of expenses and transfer of funds; and gifting totaling **\$87,000.00** in amounts not exceeding **\$5,000.00** to family members (*during May, June and July 2008; please refer to summary of dates of gifts and donees attached as Exhibit C*);
- Gifts were made to Ginger her husband Roy (**\$69,000**), Ginger's son Eric and his wife Trina (**\$6,000**), Ginger's daughter, Tina and her husband Curtis (**\$12,000**); because Julie Banks had removed herself from the family and adopted an adversarial position, Julie was not the recipient of any gifts;
- The funds gifted to Ginger and her husband were deposited into the account set aside for her parent's benefit at Washington Mutual and were used to pay certain expenses and costs; (*please refer to summary of transactions in the Washington Mutual account containing the \$69,000 gifted funds to Ginger for the benefit of Elmer and Julia, attached as Exhibit E*);
- Following appointment of Public Guardian as Conservator, the funds in the Washington Mutual account were transferred on 1/13/2009 to Deputy **YOUA HER** along with other accounts in Elmer and Julia's names; unfortunately, by transferring the funds back to Julia's name, the Flys no longer qualified for Medi-Cal;
- **Allegations regarding personal property:** In spring 2008, Ginger and family cleaned up the residence for sale, and held a yard sale where **\$1,400** was received and paid to Eric and Tina and their spouses for the work in readying the property for sale; the payment of **\$1,116** was for hauling away the remaining junk; this information is detailed in an email to Deputy Youa Her on 10/19/2008 (*copy attached as Exhibit G*); Ginger was acting within her POA authority in taking these actions;
- The vehicles were a 1994 truck which was given by Elmer and Julia gave to their grandson Rick and Rick's wife Trina insisted on paying **\$800.00**, and a check was given to Julia when she was managing her own finances; the 2004 Nissan Pathfinder was transferred to Trina in June 2008, as Julia signed it over to Ginger, but Ginger did not need it; the travel trailer acquired in 2006 for taking Julia and Elmer to Idaho had a loan balance due (purchase was made by turning in Ginger and Roy's own trailer as down payment) and per the Souta's recommendation the loan was paid off and trailer sold;
- Respondent (Ginger) is concerned that the Public Guardian's unwinding the annuity has been draining Julia's funds rather than having Julia's expenses paid in part by Medi-Cal, and that the funds will be dissipated more quickly than anticipated; Respondent has been advised that Elmer's pension could be received by Julia and provided this information to the Public Guardian, but they have failed to take action to secure these benefits;
- **Respondent's defense to the accusations of breach of fiduciary duty:** In all of Respondent's dealings she undertook whether under power of attorney or as trustee of her trust, she was in direct communication with her parents concerning the transactions; Julia was fully advised of the transactions and agreed to the gifts, to the Medi-Cal qualification and ratified the gifts and transactions taken on her behalf; Julia (the Conservatee) suffered no detriment as a result of the transactions and in fact Conservatee was benefited by enabling Medi-Cal qualification; at no time did Ginger act recklessly, wantonly or in bad faith, nor did she ever intend to deprive Julia of her property for any purpose; in all actions Ginger took on behalf of her mother and father, she acted with utmost good faith and fairness, with intent to enhance the quality of their living situation and to preserve their assets for their use; any actions taken were authorized under the POA, and all acts and transactions were reported to the Public Guardian Deputy Youa Her and information was fully and completely provided again and again;

~Please see additional page~

Respondent states, continued:

- If the Court determines that in some manner Respondent breached her fiduciary duty by an act not authorized by the trust, the POA or by express consent of Elmer or Julia, Respondent requests that any such breach be excused per Probate Code § 16440(b) such that the financial benefit accruing to Elmer and Julia exceeded any possible loss that might have arisen as a result of Respondent's actions which were taken reasonably and in good faith;
- **Conversion. Elder Financial Abuse. Constructive Trust:** Respondent denies that any of her acts as set forth in the petition with respect to Julia's property constitute conversion as claimed and denies any liability therefor; Respondent denies any financial elder abuse, as Julia did not suffer diminished mental capacity and remained aware of her financial affairs; Respondent has made it known to the Public Guardian that Julia was distraught over actions of harassment and physical and financial abuse by the Banks, but they have taken no actions to explore the charges; Respondent denies that she has wrongfully taken, transferred, concealed or otherwise deprived Julia of funds or personal property and denies she is the voluntary trustee of said property;
- **Respondent believes that Petitioner in bringing these allegations is bringing this petition in bad faith, despite having been in possession of the information set forth in this response, and the Public Guardian should be required to pay damages and attorney's fees to Respondent.**

Respondent's Objection to Petition and to Conservator's Second Account:

- Respondent renews her objection to the Conservator's Second Account that the Conservator has failed to obtain survivor's benefits due to the Conservatee from the Veteran's Administration;
- Respondent further objects to the bringing of the petition in that at all times since Petitioner's appointment as Conservator, Petitioner has been in possession of much of the information which is once again requested in the petition;
- Respondent further objects to the Public Guardian's petition to the extent that the account requests attorney's fees (which will further dissipate the estate) for the research and bringing of such a petition which will not benefit the Conservatee and will further reduce the assets available for her care, now that the Public Guardian has decimated the Medi-Cal planning that would have preserved assets for the Conservatee's benefit.

Respondent requests:

1. That the information set forth herein be accepted by the Public Guardian, and that upon its review the Public Guardian determine that Respondent has adequately and fully accounted for actions taken on behalf of Elmer and Julia Fly;
2. That the request of the Public Guardian for damages of any sort whatsoever be denied;
3. That the Court ratify, confirm and approve all acts taken by Respondent whether as attorney-in-fact under the POA or as trustee of the Elmer V. Fly and Julia Fly Trust as set forth herein; and
4. That the attorney's fees necessarily incurred by Respondent in responding to the allegations of the petition be paid by Petitioner.

Atty Motsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

Petition Requesting Approval of Settlement Agreement in the Matter of: Petition Requesting Relief for Breach of Fiduciary Duty, and for an Accounting, and for Conversion of Personal Property, and for Elder Abuse, and for Damages

Age: 90 years	PUBLIC GUARDIAN , Conservator of the Person and Estate appointed 11/5/2008, is Petitioner. Petitioner requests the Court approve the settlement agreement reached in this matter, based upon the following: <ul style="list-style-type: none"> This matter involved the management, disposition and handling of the real and personal property of ELMER G. FLY (DOD 11/8/2008), and JULIA B. FLY (Conservatee), by their daughter, VIRGINIA "GINGER" GREGGAINS, Respondent; On 8/21/1997, Elmer and the Conservatee executed a DECLARATION OF TRUST, ELMER V. AND JULIA B. FLY, naming Respondent as Successor Trustee; the Trust was amended several times, the latest being the <i>Third Amendment</i> dated 3/24/2008; Pursuant to the Trust, all assets were to be held for the benefit of Elmer and Julia during their lifetimes and the lifetime of the survivor; following the death of the survivor, the assets are distributed ½ to Settlor's daughter Virginia, and ½ to Settlor's three grandchildren, ERIC ("RICK") GREGGAINS, JULIE BANKS, and TINA COX, in equal shares; On 3/21/2008, Julia executed a General Durable Power of Attorney designating Ginger Greggains to act as attorney-in-fact; STEPHEN ROY GREGGAINS, Ginger's husband, was designated as alternate attorney-in-fact; <p align="center">~Please see additional page~</p>	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 11/27/2012.</u>	
Cont. from 092612, 101612, 112712			
<input type="checkbox"/> Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified			
<input type="checkbox"/> Inventory			
<input type="checkbox"/> PTC			
<input type="checkbox"/> Not.Cred.			
<input checked="" type="checkbox"/> Notice of Hrg			
<input checked="" type="checkbox"/> Aff.Mail			W/
<input type="checkbox"/> Summons			
<input checked="" type="checkbox"/> Sp.Ntc.			W/
<input type="checkbox"/> Pers.Serv.			
<input type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters			
<input type="checkbox"/> Duties/Supp			
<input checked="" type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input checked="" type="checkbox"/> Order			
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			

Petitioner states, continued:

- Interested parties, including granddaughter Julie Banks, questioned Greggains' motives for her handling of Elmer and Julia's finances, her placement of Elmer and Julia in a care facility, the proposed sale of the Flys' residence, and the purchase of an annuity; at the request of Julie, proceedings initiated by the **PUBLIC GUARDIAN** as Conservator of the person and estate of Julia against Greggains for financial mismanagement, alleging breach of fiduciary duty and contending the disposition of the couple's assets were ill-advised and in contravention of the Flys' estate plan and existing Trust; Julie Banks insisted a formal accounting was necessary;
- Greggains response detailed the actions taken with the Flys' resources, with respect to Medi-Cal planning, and the purchase of the annuity; she provided an accounting of funds in her possession that were transferred or used for the benefit of Elmer and Julia, and an accounting of funds turned over to the Public Guardian; she objected to the Public Guardian's actions in changing the Annuity making Julia ineligible for Medi-Cal and to the Public Guardian's accounting and fees requested;
- Following several meetings between counsel and clients, the parties concluded it was in the best interest of the Conservatee and her estate that this matter be settled; it became apparent after lengthy discussions that Greggains had little or no liquid assets, the her real property was encumbered in excess of its fair market value, and her only source of income was Social Security benefits, such that she was in effect "judgment proof," and it became apparent that trial costs and expenses would be substantial and could be borne by the estate of the Conservatee, thus unnecessarily depleting her assets.

Petitioner states the parties entered into an agreement to settle and compromise in full the dispute by and between the Public Guardian and Greggains in order to avoid further expense, acrimony and controversy in regard to all issues raised and alleged; *(copy of the fully executed Mutual General Release and Settlement Agreement is attached as Exhibit A)*; a brief summary follows:

- (a) Any funds remaining in the Conservatorship estate upon Julia Fly's death, including any proceeds payable on the annuity contract, after payment of fees, costs and expenses, shall be paid to the named Trustee of the Trust to be distributed as part of the Trust;
- (b) The Public Guardian as Conservator of the Person and Estate of Julia withdraws and dismisses with prejudice its *Petition Requesting Relief for Breach of Fiduciary Duty, etc.*, and the Public Guardian waives any further accounting by Respondent Greggains as Trustee of the Trust or as Attorney in Fact for Julia;
- (c) Respondent withdraws and dismisses with prejudice her Objections to the Conservator's Second Account and for payment of attorney fees, Conservator fees and costs, and any and all objections which may be deemed in nature of a cross-complaint raised in her response;
- (d) Public Guardian agrees that it will initiate no further actions or complaints, nor initiate any other proceedings in this matter as to Respondent, including any civil and/or criminal actions.

Petitioner prays for an Order that:

1. The settlement of this matter is approved as prayed;
2. Any funds remaining in the Conservatorship estate upon the death of the Conservatee shall be paid to the Trustee of the **Elmer V. and Julia B. Fly Trust**, and that Respondent is to [agree] that any funds received by her, no matter the source, shall be paid to and held by the Trustee of the Trust;
3. The petition filed by the Public Guardian is dismissed with prejudice and any further accounting by Respondent is waived;

~Please see additional page~

Petitioner prays for an Order, continued:

4. The objections of the Respondent are withdrawn and dismissed with prejudice as to the Conservator's second account and for payment of attorney's fees and costs, as well as all objections raised by the Respondent in her response to the Public Guardian's petition and any and all objections raised by her which might be deemed in the nature of a cross-complaint; and
5. The Public Guardian shall initiate no further actions or complaints or other proceedings in that matter as to the Respondent as to the rights or damages allegedly sustained by the Conservatee.

Objection to Petition Requesting Approval of Settlement Agreement in the Matter of Petition for Relief for Breach of Fiduciary Duty; for an Accounting; for Conversion of Personal Property; for Elder Abuse; and for Damages filed on 9/21/2012 by JULIE BANKS, granddaughter of Conservatee, states:

- She objects to the settlement agreement [statements of factual background omitted];
 - In the spring of 2008, following Elmer's stroke and heart attack and move into the Alzheimer's center at Elim, Greggains purportedly determined that Elmer and Julia would not be able to return to their residence and began a systematic theft of all of their property; as part of that scheme, on 3/21/2008, Greggains caused Julia to execute a General Durable Power of Attorney, designating Greggains as attorney-in-fact, and **STEPHEN ROY GREGGAINS**, (Ginger) Greggains' husband, was named as alternate attorney-in-fact;
1. **Theft of Cash through purchase of Annuity:** After obtaining the Power of Attorney, Greggains contacted **SOUTAS & ASSOC. (S&A)** for the purported reason to qualify Elmer and Julia for Medi-Cal for the cost of their care; in reality it was to further her scheme to take assets out of the Trust, to countermand the inheritance directions of Julia and Elmer, and ultimately put money in her own pocket; the Annuity application submitted by Greggains on 3/29/2008 reveals that Greggains purchased a **\$159,983.79** Annuity and she and her husband (Stephen) listed themselves as the primary and contingent beneficiaries to the Conservatee, and did not list Settlor's grandchildren as instructed, nor was the beneficiary listed as the Trust as Greggains stated to the Court in a lie on 8/25/2008 (*copy of Reporter's Transcript attached as Exhibit D to the Declaration of Julie Banks in Support of Objection to Petition Requesting Approval of Settlement Agreement filed 9/21/2012*); Greggains elected the Annuity to pay out **~\$10.00** per month with the balance to be paid in 5 years, in order to maximize the benefit to her and her husband; Greggains' plan was obvious: take the money out of the Trust and hope that Julia and Elmer pass away before the Annuity matured; an Annuity that paid out **\$10.00** per month was not appropriate for a couple with substantial needs in their twilight years.
 2. **Theft of Conservatee's vehicles:** In 2008, Conservatee and Elmer owned and possessed a Nissan Pathfinder (~2004 model), and Objector believes that Greggains transferred the Pathfinder to her son, **ERIC GREGGAINS**, without value;
 3. **Theft of Conservatee's furnishings and personal belongings:** Greggains and her close family took and either sold or kept for themselves the furnishings and personal belongings of Conservatee; Objector believes the Inventory filed by the Public Guardian does not include furnishings and personal property of **~\$75,000.00** (*Declarations previously filed with Court on 10/10/2008 and 10/15/2008 listing the property are attached as Exhibits B and C to Banks' Declaration*);
 4. **Theft of Nevada property:** Conservatee and her husband own 40 acres of land in Nevada, per the parcel number indicated on the property profile of the Annuity application dated 4/24/2009; even though the County of Fresno and Greggains is aware of the Nevada property, it is mysteriously absent from the Inventory without explanation;

~Please see additional page~

Objection to Petition filed on 9/21/2012 by JULIE BANKS, continued:

- 5. Greggains' Embezzlement and Misuse of the Conservatee's Estate:** Based upon the either missing from the Inventory or simply stolen, there is considerable concern that Greggains has absconded with additional money and personal property, and she cannot be trusted and should not receive a release or dismissal with prejudice of the petition; examples include the Inventory showing cash of **\$10,660.20** as of 9/12/2008, but the Annuity application showing cash and securities of **\$283,000.00** on 5/29/2008; even with the **\$159,983.79** Annuity purchase, there is still an evaporation of funds of **\$112,356.01** that is missing and unexplained; Greggains also stated to the Court on 8/25/2008 that Conservatee had **\$60,000.00** in a checking account, two weeks prior to the 9/12/2008 application; additionally, Greggains again lied to the Court on 8/25/2008 in stating the Flys' residence sale had not closed in responding that just an offer was made that was not accepted, while the *Purchase Agreement (attached as Exhibit F to Banks Decl.)* shows the purchase was signed on 8/21/2008, a mere four days before the hearing, so Greggains knew the purchase was signed on Monday and the hearing was on Thursday (see copy of 8/25/2008 Reporter's Transcript attached as Exhibit D to Banks' Declaration);
- 6. Theft in the form of Financial Gifts and Monies used for Greggains' own purpose:** Greggains gifted at least **\$77,000.00** to herself and other chosen family members during May and June 2008 (see copies checks written by Greggains for gifts to relatives attached as Exhibits G and H); and Greggains used estate money to pay off her travel trailer (**\$15,288.71**), a down payment for Jeep Liberty for herself and her husband (**\$4,000.00**), room remodel reimbursement done long before Flys' illness (**\$6,248.20**), and a carport built in Greggains' backyard for their cash business "Bear Critters" (**\$7,000.00**).

Objector's Argument:

(A) The Settlement Agreement Exonerates Elder Abuse: Since October 2008, Fresno County has possessed substantial evidence showing Greggains and Stephen committed both civil and criminal crimes of Elder Abuse; Public Guardian retained Attorney Motsenbocker to investigate the allegations and collectability of an action against them; Motsenbocker filed the *Petition Requesting Relief for Breach, etc.* after reviewing the evidence and financial resources of the proposed defendants; after further depleting the estate, Motsenbocker is seeking to settle the case with both a civil and criminal exoneration for Greggains and Stephen; the settlement agreement is apparently based on the lack of financial wherewithal of Greggains and Stephen, even though there is substantial evidence of Elder Abuse.

The motion to approve the settlement should be denied for the following reasons:

1. There is no basis to provide the dismissal with prejudice; should Greggains and Stephen obtain significant financial resources, the Public Guardian should retain the right to collect the money and property that has been stolen; it would be more appropriate to dismiss the case without prejudice and sign a tolling agreement so that the claims do not lapse;
2. The settlement agreement provides that Greggains and Stephen will avoid criminal prosecution for their illegal acts because of lack of funds; it would be analogous to a government agency that refuses to file criminal charges against a bank robber because he has spent all of his ill-gotten gains and is again impoverished; Greggains and Stephen are the poster child of individuals that are callous enough to steal from their own parents; if the civil claims are dropped, this matter should be referred to criminal prosecution since it would not be a further drain on the Estate, nor is it dependent on the finances of the defendants; criminal exoneration will only condone the actions of Greggains and Stephen.

~Please see additional page~

Objector's Argument, continued:

(B) The County Failed to do any Due Diligence of the Defendants Financial Wherewithal: Prior to filing the petition, Motsenbocker represented to Deputy Youa Her that the defendants had the financial wherewithal to satisfy the proposed claims; without explanation, the settlement agreement and motion accept as a fact that Greggains and Stephen have no source of income other than social security and their house is under water; however, there is no evidence that the County performed any due diligence concerning the defendants earning ability or assets; as set forth in [Exhibit I] to the *Declaration of Julie Banks* [filed 9/21/2012], the defendants have a cash business selling carved wooden bears and other critters to the public, and in fact they used a portion of the stolen Estate money to make improvements to their garage from which to run the business; the motion and settlement agreement accept as a fact a statement from the defendants that they have no assets or income, and this type of blind devotion is not prudent when the statement is coming from the very parties accused of committing Elder Abuse crimes; additionally, there is no accounting of the items that were stolen; who owns the property in Nevada? Why hasn't there been a request that the individual family members of the defendants that received the stolen money and property return the same to the estate? The County knows the check numbers, amounts and recipients, but has the County taken the depositions of defendants or hired an asset investigation company to review the matter? A settlement without adequate investigation is foolhardy at best.

(C) The Settlement is not in the Best Interest of the Estate: It appears that the settlement is partially motivated to protect the interests of the County from liability; is the County really concerned that the "impoverished defendants" have the means to prosecute the County for damages? Does the County have liability for actions that it took, or more importantly, did not take? If that is so, should the County give a free pass to the defendants in order to escape liability when there is substantial evidence of their wrong-doing? Should the County and its agents be paid for depleting the Estate's resources without anything accomplished for the Estate? It is obvious that the answer to these questions is a resounding "No."

Objector concludes: Elmer and Julia Fly had plenty of assets and no debts; they should have been able to live comfortably through these difficult times and now, according to the Inventory and Appraisal, in just 9 months of Elmer's illness, all that they saved and accumulated for 68 years is almost gone; it makes no sense; this settlement agreement is fundamentally flawed and should not be approved.

DOD: ????		LUPE BONILLA HERNANDEZ , surviving spouse, is Petitioner. No other proceedings.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 11/15/12</u> Minute Order from 11/15/12 states: Counsel informs the Court that he has a certified death certificate. Counsel is directed to file the certificate with the Clerk's office and cure the remaining defects. As of 12/10/12, nothing further has been filed and the following items remain outstanding: 1. Petition is incomplete at item 3. Need decedent's date of death. 2. The Petition is missing Attachment 7 which is to state the facts upon which Petitioner bases the allegation that the property described Attachment 7a is property that should pass or to her as the surviving spouse. 3. Need Order.	
Cont. from 111512				
<input type="checkbox"/>	Aff.Sub.Wit.			Decedent died intestate.
<input checked="" type="checkbox"/>	Verified			Petitioner states - ??? [no statement is made]
<input type="checkbox"/>	Inventory	Petitioner requests court confirmation that real property property (APN: 554-270-016) passes to her.		
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input type="checkbox"/>	Order			X
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
Reviewed by: JF Reviewed on: 12/10/12 Updates: Recommendation: File 3 - Hernandez				

Probate Status Hearing Re: Failure to File Inventory and Appraisal; Failure to File a First Account or Petition for Final Distribution [Prob. C. 12200, et seq.]

DOD: 10/23/2005	MICHAEL SCOTT FONDRIAK was	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 11/9/12</u> Minute Order 11/9/12: Counsel informs the Court that her client lives in Oklahoma and she hasn't had contact with him. Counsel indicates to the Court that she believes the Probate petition should be dismissed in light of the joint deed of ownership. Continued to 12-14-12. 1. Need inventory and appraisal and first account or petition for final distribution or current written status report pursuant to Local Rule 7.5. Alternatively, need petition to terminate proceedings pursuant to Probate Code § 12251. <i>Note: With reference to the minute order of 11/9/12, Examiner notes that dismissal is inappropriate since the Administrator was appointed and letters issued in 2006.</i> See Probate Code § 12251.
	appointed Administrator without bond with Limited IAEA authority on 2/28/2006.	
	Letters issued on 3/1/2006.	
Cont. from 110912	Inventory and appraisal was due 8/1/2006.	
Aff.Sub.Wit.	First Account or Petition for Final Distribution was due 5/1/2007.	
Verified	Notice of Status Hearing was mailed to attorney Joanne Sanoian and administrator Michael Scott Fondriak on 9/12/12.	
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT / skc
		Reviewed on: 12/10/12
		Updates:
		Recommendation:
		File 4 – Fondriak

Probate Status Hearing Re: Failure to File Inventory and Appraisal; Failure to File a First Account or Petition for Final Distribution (Prob. C. 12200, et seq.)

DOD: 3/8/2006		<p>ARACELI SOTO GOMEZ was appointed Administrator without bond with full IAEA authority on 7/27/2009.</p> <p>Letters issued on 7/27/2009.</p> <p>Inventory and appraisal was due 12/27/2009.</p> <p>First Account or Petition for Final Distribution was due 7/27/2010.</p> <p>Notice of Status Hearing was mailed to attorney Robert W.M. Cross and administrator Araceli Soto Gomez on 9/6/12.</p> <p>Status Report filed 11/8/12 states they are not yet able to furnish the court with an inventory and appraisal. They are requesting a continuance for at least a month to allow sufficient time to complete both the inventory and appraisal and to filing accounting report.</p> <p>I&A filed 12-4-12 reflects a total estate value of \$68,035.00 consisting of a 1/3 interest in real property, various personal property items, and three vehicles.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need first account or petition for final distribution or current written status report pursuant to Local Rule 7.5.</p>
Cont. from 110912			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt	X		
UCC/JEA			
Citation			
FTB Notice			

Reviewed by: KT / skc
Reviewed on: 12/10/12
Updates:
Recommendation:
File 5 - Soto

Atty Turner, Patrick A. (for Nancy Varela – Executor)

Atty Tillman, Lisa (Deputy Attorney General – for DHS Estate Recovery Section)

Probate Status Hearing Re: Failure to File First Account or Petition for Final Distribution

DOD: 3-16-08		<p>NANCY VARELA was appointed Executor with Full IAEA without bond and Letters issued on 6-3-08.</p> <p>Notice of Pendency of Action filed 10-19-12 by California Attorney General states that on 10-5-12, an action entitled "Toby Douglas, Director of the Department of Health Care Services, vs. Nancy Varela, as Personal Representative of the Estate of Elvira Robles Betts aka Elvira Betts, Decedent; and Does 1 through 20, inclusive," Case No. 12CECG0334. The nature of the action is a Complaint to Enforce and Collect Mondy Due on Medi-Cal Creditor's Claim for \$105,727.59 pursuant to W&I Code § 14009.5.</p> <p>Therefore, on 10-19-12, the Court set this status hearing for failure to file a first account or petition for final distribution.</p> <p>I&A filed 12-4-12 indicates a total estate value of \$130,075.00 as of the date of death, including residential real property located at 1724 North West in Fresno and various personal property items.</p> <p>Status Report filed 12-4-12 states the claim cannot be paid until the real property is sold. Executor has been in the process of maintaining and repairing the property in preparation for sale and it is now listed for sale. The asking price was originally \$119,000.00, but the price has now been lowered to \$109,000.00. Accordingly, Executor now considers the estate insolvent. It is anticipated that the proceeds will be insufficient to pay all administrative expenses and still cover the full amount of the DHS claim.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> Executor Nancy Varela is the wife of the Decedent's son Reuben T. Varela.</p> <p><u>Note:</u> California Dept. of Health Care Services filed a Creditor's Claim on 9-15-08 for \$105,727.59, along with Request for Special Notice. Executor filed an Allowance on 8-20-09.</p> <p>1. A Proof of Service is attached to the Status Report; however, it does not appear that the mandatory Judicial Council Form Notice of Hearing was served on DHS pursuant to Request for Special Notice and Probate Code §1252. The Court may require continuance and amended service.</p> <p>2. Examiner notes that the Status Report does not indicate the reason for failure to timely close the estate (to the possible detriment of the estate and the creditor).</p> <p>Examiner notes that at the time of the Petition in 2008, Decedent's son Benjamin Varela was sent notice at the address of the real property. Has the house been occupied during administration? Has the estate received any rent or benefit?</p> <p><u>Note:</u> Probate Code §12205 allows reduced compensation to attorney and executor if a determination is made that the time taken for administration exceeded the time required, and that the time was within the control of the personal representative or attorney, and that the delay was not in the best interest of the estate.</p>
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	X		
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
✓ Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Reviewed by: skc
Reviewed on: 12-10-12
Updates:
Recommendation:
File 6 - Betts

Atty Kruthers, Heather H. (for Public Administrator/Petitioner)

Status Hearing Re: (1) Report of Administration; and (2) Petition for Fees and (3)
Final Distribution of Insolvent Estate

DOD: 04/10/08		PUBLIC ADMINISTRATOR , successor Administrator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		PUBLIC ADMINISTRATOR , filed a Report of Administration, Petition for Fees and Final Distribution of Insolvent Estate on 10/11/12 that was set for hearing on 11/15/12.	<ol style="list-style-type: none"> 1. Need Waiver pursuant to minute order dated 11/15/12. 2. Need new Order.
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.	Minute Order from 11/15/12 set this matter for status and states: Petition approved subject to receipt of waiver.	
<input type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg		
<input type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order <input checked="" type="checkbox"/>		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: JF
			Reviewed on: 12/10/12
			Updates:
			Recommendation:
			File 7 - Jacobs

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution (Prob. C. 12200, et seq)

DOD: 09/03/07		ROSARIO GUIZAR , sister, was appointed Administrator with full IAEA and bond set at \$70,000.00 on 04/15/10. Bond was filed on 10/15/10 and Letters were issued on 10/15/10.	NEEDS/PROBLEMS/COMMENTS:
Cont. from		Inventory & Appraisal filed 11/03/10 shows an estate value of \$70,327.73.	1. Need Account and Petition for Final Distribution.
<input type="checkbox"/>	Aff.Sub.Wit.		
<input type="checkbox"/>	Verified	Notice of Status Hearing filed 10/19/12 set this matter for status. Clerk's certificate of mailing states that the Notice of Status Hearing was mailed to Edward L. Fanucchi on 10/19/12.	
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg		
<input type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: 12/10/12
			Reviewed on:
			Updates:
			Recommendation:
			File 8 - Garcia

DOD: 06/24/10	<p>ROGER ROWELL and DAVID E. ROWELL, were appointed as Co-Administrators with Full IAEA without bond on 02/17/11. Letters were issued on 02/17/11.</p> <p>On 10/21/11, David E. Rowell resigned as Co-Administrator. New Letters were issued to Roger Rowell as the sole Administrator on 11/01/11.</p> <p>Inventory & Appraisal filed 11/29/11 shows an estate value of \$289,000.00 (1/7th of a 40% interest in real property).</p> <p>On 10/17/12, Thomas Markeson, filed a Motion to be Relieved as Counsel stating that there was a conflict regarding the administration of the estate which has made it impossible for him to continue representing Mr. Rowell in this matter.</p> <p>Order granting Attorney's Motion to be Relived as Counsel filed 11/26/12 relieved Mr. Markeson as counsel for Roger Rowell and set this matter for status re filing of the Accounting and Petition for Final Distribution. The Court also directed counsel to provide notice to Mr. Rowell regarding the filing of the account and/or petition for final distribution.</p> <p>Notice of Entry of Order Granting Attorney's Motion to be Relieved as Counsel filed 11/27/12 states that the Notice with a copy of the Order relieving Mr. Markeson as counsel was mailed to Roger Rowell and David Rowell on 11/27/12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Accounting and/or Petition for Final Distribution.</p>
Cont. from		
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Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	<p>Reviewed by: JF</p> <p>Reviewed on: 12/10/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 9 - Rowell</p>	

DOD: 01/09/09			CHERIE L. MEDINA , daughter, was appointed Administrator with limited IAEA without bond on 10/20/11. Letters were issued on 10/20/11. Report of Sale and Petition for Order Confirming Sale or Real Property was filed 10/01/12 and set for hearing on 11/06/12. Order Confirming Sale of Real Property was filed 11/06/12 states that proceeds from the sale to be deposited into blocked account. Order to Deposit Money into Blocked Account filed 11/06/12.	NEEDS/PROBLEMS/COMMENTS: 1. Need Receipt & Acknowledgment of Order for the Deposit of Money into Blocked Account. Note: Petitioner submitted an incomplete and unsigned Receipt & Acknowledgment, however, the Receipt needs to be completed and signed by a representative of the financial institution where the sale proceeds are deposited before being filed with the court.
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.	<input type="checkbox"/>		
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<input type="checkbox"/>	PTC	<input type="checkbox"/>		
<input type="checkbox"/>	Not.Cred.	<input type="checkbox"/>		
<input type="checkbox"/>	Notice of Hrg	<input type="checkbox"/>		
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<input type="checkbox"/>	Conf. Screen	<input type="checkbox"/>		
<input type="checkbox"/>	Letters	<input type="checkbox"/>		
<input type="checkbox"/>	Duties/Supp	<input type="checkbox"/>		
<input type="checkbox"/>	Objections	<input type="checkbox"/>		
<input type="checkbox"/>	Video Receipt	<input type="checkbox"/>		
<input type="checkbox"/>	CI Report	<input type="checkbox"/>		
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<input type="checkbox"/>	Order	<input type="checkbox"/>		
<input type="checkbox"/>	Aff. Posting	<input type="checkbox"/>		
<input type="checkbox"/>	Status Rpt	<input type="checkbox"/>		
<input type="checkbox"/>	UCCJEA	<input type="checkbox"/>		
<input type="checkbox"/>	Citation	<input type="checkbox"/>		
<input type="checkbox"/>	FTB Notice	<input type="checkbox"/>		
Reviewed by: JF				
Reviewed on: 12/10/12				
Updates:				
Recommendation:				
File 10 - Conway				

<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td colspan="2">Ernest DOD: 2003</td></tr> <tr><td colspan="2">Loretta DOD: 6/9/11</td></tr> <tr><td colspan="2"> </td></tr> <tr><td colspan="2"> </td></tr> <tr><td colspan="2"> </td></tr> <tr><td colspan="2"> </td></tr> <tr><td style="width: 10px;"> </td><td>Aff.Sub.Wit.</td></tr> <tr><td> </td><td>Verified</td></tr> <tr><td> </td><td>Inventory</td></tr> <tr><td> </td><td>PTC</td></tr> <tr><td> </td><td>Not.Cred.</td></tr> <tr><td> </td><td>Notice of Hrg</td></tr> <tr><td> </td><td>Aff.Mail</td></tr> <tr><td> </td><td>Aff.Pub.</td></tr> <tr><td> </td><td>Sp.Ntc.</td></tr> <tr><td> </td><td>Pers.Serv.</td></tr> <tr><td> </td><td>Conf. Screen</td></tr> <tr><td> </td><td>Letters</td></tr> <tr><td> </td><td>Duties/Supp</td></tr> <tr><td> </td><td>Objections</td></tr> <tr><td> </td><td>Video Receipt</td></tr> <tr><td> </td><td>CI Report</td></tr> <tr><td> </td><td>9202</td></tr> <tr><td> </td><td>Order</td></tr> <tr><td> </td><td>Aff. Posting</td></tr> <tr><td> </td><td>Status Rpt</td></tr> <tr><td> </td><td>UCCJEA</td></tr> <tr><td> </td><td>Citation</td></tr> <tr><td> </td><td>FTB Notice</td></tr> </table>	Ernest DOD: 2003		Loretta DOD: 6/9/11											Aff.Sub.Wit.		Verified		Inventory		PTC		Not.Cred.		Notice of Hrg		Aff.Mail		Aff.Pub.		Sp.Ntc.		Pers.Serv.		Conf. Screen		Letters		Duties/Supp		Objections		Video Receipt		CI Report		9202		Order		Aff. Posting		Status Rpt		UCCJEA		Citation		FTB Notice	<p>DENNIS L. THOMAS, son, beneficiary, and Successor Co-Trustee, filed a Petition to Determine Validity of Trust Instruments; to Determine Title to Property; to Recover Trust Property; to Compel Trustee to Account and Report; Financial Elder Abuse on 12-19-11 that was set for hearing on 2-7-12.</p> <p>JANETTE COURTNEY, Executor of the Estate of Loretta Drummond and Trustee of the Loretta M. Drummond "S" Trust filed a Response and Request for Abatement per Probate Code §854 on 1-30-12.</p> <p>Settlement Conference Minute Order 10-17-12 states: The Court notes for the record that a conference call was conducted in chambers with Charles Ashdon and Janette while both counsel were present. Parties reach a settlement agreement as fully set forth on the record by Mr. Keeler. Mr. Keeler indicates for the record that this is intended to be a settlement of both cases. Settlement agreement to be reduced to writing within the next four to five days. The Court will retain jurisdiction to enforce the agreement. Matter set for Status Hearing regarding the settlement agreement on 12/14/12. If the agreement is completed by 12/14/12, no appearance will be necessary. Set for 12/14/12 for: Status Hearing Re: Settlement Agreement</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need settlement agreement per minute order 10-17-12.</p>
Ernest DOD: 2003																																																												
Loretta DOD: 6/9/11																																																												
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Reviewed by: skc																																																												
Reviewed on: 12-10-12																																																												
Updates:																																																												
Recommendation:																																																												
File 11 - Drummond																																																												

Probate Status Hearing Re: Failure to File the Inventory & Appraisal

Age: 5		JULIETA GUERRERO , Mother, was appointed Guardian of the Estate of Gabriela Guerrero on 5-11-12 in anticipation of the minor receiving distribution of real property from her deceased father's estate via summary proceeding.	NEEDS/PROBLEMS/COMMENTS: Note: Court records in 11CEPR00937 indicate that a Petition to Determine Succession was denied without prejudice by the Court on 7-11-12; however, no amended petition has yet been filed.		
Aff.Sub.Wit.				Letters have not issued. On 10-17-12, the Court set this status hearing for failure to file inventory and appraisal. On 11-7-12, A Request for Dismissal of the petition was filed; however, dismissal could not be entered because an order was entered appointing a guardian. Therefore, dismissal of the petition is inappropriate.	<ol style="list-style-type: none"> 1. Need I&A or petition to terminate proceedings under the appropriate code section. 2. Need status of property. Examiner notes that the real property has not yet passed to the minor; however, the status of the property is unknown - Is it occupied?, etc.
Verified					
Inventory					
PTC					
Not.Cred.					
Notice of Hrg					
Aff.Mail					
Aff.Pub.					
Sp.Ntc.					
Pers.Serv.					
Conf. Screen		Nothing further has been filed.	<div>Reviewed by: skc</div> <div>Reviewed on: 12-10-12</div> <div>Updates:</div> <div>Recommendation:</div> <div>File 12 - Guerrero</div>		
Letters					
Duties/Supp					
Objections					
Video Receipt					
CI Report					
9202					
Order					
Aff. Posting					
Status Rpt					
UCCJEA					
Citation					
FTB Notice					

Atty Keeler, William J., of Garvey Schubert Barer in Portland, OR, and Burnside, Leigh W., of Dowling Aaron Incorporated in Fresno, CA (together, for Michelle L. Eacret, Administrator)

Atty LeVan, Nancy for Robert Jones and Denise Jones Co Administrators of the Estate of Sharon Rutherford

Status Conference

DOD:		<p>MICHELLE L. EACRET, Niece and Administrator with Full IAEA with bond of \$200,000.00 (Estate of James L. Rutherford), requested an order directing that a citation be issued to ROBERT JONES, as an individual and as Personal Representative of the Estate of Sharon Rutherford, and DENISE JONES, as an individual and as Personal Representative of the Estate of Sharon Rutherford, under Probate Code §§ 8770(a) and 8873(a).</p> <p>At Settlement Conference hearing on 10-29-12, the parties reached agreement on the record; Mr. Keeler to submit stipulation and order. Trial date of 11-30-12 vacated and replaced with this Status hearing.</p> <p>Status report filed 12-7-12 states Mr. Keeler prepared the settlement and provided it to Attorney LeVan for review. At this time, no proposed changes have been provided. An email was sent on 12-6-12 requesting the status of Ms. LeVan's review; however, no response has been received.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> ROBERT JONES and DENISE JONES were appointed Co-Administrators on 3-16-12 of the Estate of Sharon Rutherford (this Decedent's spouse) in 12CEPR00101.</p> <p>1. Need Stipulation and Order per minute order 10-29-12.</p>
Cont. from 113012			
<input type="checkbox"/>	Aff.Sub.Wit.		
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<input type="checkbox"/>	Inventory		
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<input type="checkbox"/>	Status Rpt X		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p>Reviewed by: skc</p> <p>Reviewed on: 12-7-12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 13 - Rutherford</p>	

		NEEDS/PROBLEMS/COMMENTS: <p style="text-align: center;"><u>OFF CALENDAR</u> Inventory & Appraisal filed 08/28/12</p>
Cont. from		
<input type="checkbox"/>	Aff.Sub.Wit.	
<input type="checkbox"/>	Verified	
<input type="checkbox"/>	Inventory	
<input type="checkbox"/>	PTC	
<input type="checkbox"/>	Not.Cred.	
<input type="checkbox"/>	Notice of Hrg	
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<input type="checkbox"/>	Pers.Serv.	
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<input type="checkbox"/>	Letters	
<input type="checkbox"/>	Duties/Supp	
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<input type="checkbox"/>	Video Receipt	
<input type="checkbox"/>	CI Report	
<input type="checkbox"/>	9202	
<input type="checkbox"/>	Order	
<input type="checkbox"/>	Aff. Posting	
<input type="checkbox"/>	Status Rpt	
<input type="checkbox"/>	UCCJEA	
<input type="checkbox"/>	Citation	
<input type="checkbox"/>	FTB Notice	
		Reviewed by: JF
		Reviewed on: 12/10/12
		Updates:
		Recommendation:
		File 14 - Hayes

		NEEDS/PROBLEMS/COMMENTS: <p style="text-align: center;"><u>OFF CALENDAR</u> Inventory & Appraisal filed 08/31/12</p>
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
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Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
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Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: JF Reviewed on: 12/10/12 Updates: Recommendation: File 15 - Bakkedahl

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 05/25/12		DAN McKEE , son, was appointed Executor with full IAEA without bond on 07/10/12. Letters were issued on 07/17/12.	NEEDS/PROBLEMS/COMMENTS: 1. Need Inventory & Appraisal.
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
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<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		Reviewed on: 12/10/12	
		Updates:	
		Recommendation:	
		File 16 - McKee	

Age: 39		MANUEL CHAVEZ and SUSAN CHAVEZ LEON were appointed Co-Conservators of the Person and Estate with additional powers under Probate Code §2591(i) on 10-26-12 with bond of \$201,850.00. At hearing on 10-18-12, the Court set this status hearing for filing of the bond. As of 11-15-12, bond has not been filed and Letters have not issued. Minute Order 10-18-12: The Court is informed that Cynthia Chavez has been moved to Sierra Vista. The Court finds that the declaration of Dr. Volkov is substantially complete. The Court grants the petition with only those powers necessary for sale of the motor vehicle(s) and lease of the property. The Court advises counsel that anything else will need to be approved by the court. The bond is set at \$201,850.00. Counsel is directed to prepare the order. The Court sets the matter for Status Hearing Re: the Filing of the Bond on 11/16/12, Status Hearing Re: the Filing of the Inventory and Appraisal on 2/15/13, and Status Hearing Re: the Filing of the First Account and Report of Conservator on 12/20/13. Petition granted. Order to be signed ex parte. Voting rights affected. Bond in the amount of \$201,850.00 Set on 11/16/12 for: Status Hearing Re: Filing of the Bond Additional hearing dates: 2/15/13 for: Status: Inventory & Appraisal	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 11-16-12.</u> Minute Order 11-16-12: Counsel informs the Court that both conservators are working on a ten year bond and the application has been submitted. 1. On 12-3-12, Petitioners filed bond of \$183,500.00, as originally requested in the petition. However, the Court ordered \$201,850.00 based on Probate Code §2320(c)(4) and Cal. Rules of Court 7.207 (the requirement that cost of recovery be included in conservator bonds). <u>Therefore, need additional bond of \$18,350.00 as ordered.</u>
Cont. from 111612			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Reviewed by: skc
Reviewed on: 12-7-12
Updates:
Recommendation:
File 17 - Chavez

DOD: 09/07/12		MICHELLE R. CURLEY , daughter, was appointed Administrator with Full IAEA and bond set at \$30,000.00 on 11/07/12. No bond has been filed and Letters have not issued.	NEEDS/PROBLEMS/COMMENTS: 1. Need bond in the amount of \$30,000.00.		
Cont. from					
<input type="checkbox"/>	Aff.Sub.Wit.				<input type="checkbox"/>
<input type="checkbox"/>	Verified				<input type="checkbox"/>
<input type="checkbox"/>	Inventory				<input type="checkbox"/>
<input type="checkbox"/>	PTC				<input type="checkbox"/>
<input type="checkbox"/>	Not.Cred.				<input type="checkbox"/>
<input type="checkbox"/>	Notice of Hrg				<input type="checkbox"/>
<input type="checkbox"/>	Aff.Mail				<input type="checkbox"/>
<input type="checkbox"/>	Aff.Pub.				<input type="checkbox"/>
<input type="checkbox"/>	Sp.Ntc.				<input type="checkbox"/>
<input type="checkbox"/>	Pers.Serv.				<input type="checkbox"/>
<input type="checkbox"/>	Conf. Screen				<input type="checkbox"/>
<input type="checkbox"/>	Letters				<input type="checkbox"/>
<input type="checkbox"/>	Duties/Supp				<input type="checkbox"/>
<input type="checkbox"/>	Objections				<input type="checkbox"/>
<input type="checkbox"/>	Video Receipt				<input type="checkbox"/>
<input type="checkbox"/>	CI Report				<input type="checkbox"/>
<input type="checkbox"/>	9202				<input type="checkbox"/>
<input type="checkbox"/>	Order				<input type="checkbox"/>
<input type="checkbox"/>	Aff. Posting				<input type="checkbox"/>
<input type="checkbox"/>	Status Rpt				<input type="checkbox"/>
<input type="checkbox"/>	UCCJEA				<input type="checkbox"/>
<input type="checkbox"/>	Citation				<input type="checkbox"/>
<input type="checkbox"/>	FTB Notice				<input type="checkbox"/>
		Reviewed by: JF			
		Reviewed on: 12/10/12			
		Updates:			
		Recommendation:			
		File 18 - Martinez			

Status Hearing Re: Filing of the Receipt and Acknowledgement of Order for the Deposit of Money into a Blocked Account

		NEEDS/PROBLEMS/COMMENTS:
Cont. from		
	Aff.Sub.Wit.	
	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	
		<p><u>OFF CALENDAR</u></p> <p>Receipt & Acknowledgment of Order for the Deposit of Money into Blocked Account filed 11/19/12</p>
		Reviewed by: JF
		Reviewed on: 12/10/12
		Updates:
		Recommendation:
		File 19 - Vang